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E-filed: 2/3/2008

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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RAMBUS INC., No. C-05-00334 RMW

Plaintiff,

v.

HYNIX SEMICONDUCTOR INC., HYNIX
SEMICONDUCTOR AMERICA INC.,
HYNIX SEMICONDUCTOR
MANUFACTURING AMERICA INC.,

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

NANYA TECHNOLOGY CORPORATION,
NANYA TECHNOLOGY CORPORATION
U.S.A.,

Defendants.

ORDER OVERRULING NANYA'S
OBJECTIONS AND REQUEST FOR
MODIFICATION OF JUDGE AMBLER'S
DECEMBER 13, 2007, ORDER REGARDING
DEPOSITION OF DR. JIH LIEN

[Re Docket No. 943]

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Nanya¹ objects to a Special Master's order imposing discovery sanctions for Nanya's failure to produce Dr. Jih Lien for a deposition, namely, that Dr. Jih Lien may not be called as a witness at trial in any capacity. Rambus opposes the objection. The court has reviewed the papers and considered the arguments of counsel. The court overrules Nanya's objections to the discovery

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¹ "Nanya" collectively refers to all of the Nanya entities sued in these cases, namely Nanya Technology Corporation and Nanya Technology Corporation U.S.A.

1 sanction.

2 Under the Joint Case Management Order, the court reviews the Special Master's orders as it
3 would review a magistrate judge's order and will modify them "only if clearly erroneous or contrary
4 to law." *See* Docket No. 174, C-05-00334, ¶ 2(c) (N.D. Cal. Apr. 24, 2007). Nanya does not
5 address the standard of review in its papers, but suggests that Judge Ambler's imposition of
6 discovery sanctions was "not justified."

7 Preventing a witness from testifying is an appropriate sanction for failure to produce him for
8 a deposition. *See* Fed. R. Civ. P. 37(b)(2)(B); Fed. R. Civ. P. 37(b)(2)(A)(ii). Judge Ambler's order
9 is therefore not "contrary to law." After reviewing the facts underlying Judge Ambler's order and
10 the difficulties that occurred in producing Dr. Lien for his deposition, the court does not find that
11 Judge Ambler's order was "clearly erroneous."

12 Accordingly, Nanya's objections and request for modification are overruled.

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14 DATED: 2/3/2008



15 RONALD M. WHYTE
16 United States District Judge
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Dated: 2/3/2008

TSF
Chambers of Judge Whyte